

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA**

LaKiesta Davis,

Plaintiff,

v.

Westgate Resorts, LTD; and Experian
Information Solutions, Inc.,

Defendants.

Case No.:

JURY TRIAL DEMAND

Comes now Plaintiff, Lakiesta Davis (“Plaintiff”) by and through counsel undersigned, and upon information and belief, hereby complains as follows:

INTRODUCTION

1. This action arises out of Defendants’ violations of the Fair Credit Reporting Act (“FCRA”), whereby Plaintiff discovered inaccurate information reporting on Plaintiff’s consumer credit reports, disputed that inaccurate information, and Defendants willfully or negligently refused to correct the inaccurate information on Plaintiff’s consumer credit report, damaging Plaintiff.

PARTIES

2. Plaintiff is, and was at all times hereinafter mentioned, a resident of the County of Florence, South Carolina.

3. At all times pertinent hereto, Plaintiff was a “consumer” as that term is defined by 15 U.S.C. §1681(a)(c).

4. Defendant, Westgate Resorts, LTD, (“Westgate”) is and at all times relevant hereto was, a for profit institution regularly doing business in the State of South Carolina.

5. At all times pertinent hereto, Defendant Westgate was a “person” as that term is defined in 15 U.S.C. §1681a(b) and also a “furnisher” of credit information as that term is described in 15 U.S.C. §1681s-2 *et seq.*

6. Defendant, Experian Information Solutions, Inc. (“Experian”), is a credit reporting agency, licensed to do business in South Carolina.

7. Defendant Experian is, and at all times relevant hereto was, regularly doing business in the State of South Carolina.

8. Experian is regularly engaged in the business of assembling, evaluating, and disbursing information concerning consumers for the purpose of furnishing consumer reports, as defined in 15 U.S.C. §1681(d), to third parties.

9. Experian furnishes such consumer reports to third parties under contract for monetary compensation.

10. At all times pertinent hereto, Defendant Experian was a “person” and “consumer reporting agency” as those terms are defined by 15 U.S.C. §1681a(b) and (f).

JURISDICTION AND VENUE

11. That the Court has jurisdiction over this action pursuant to 15 U.S.C. § 1681p, and 28 U.S.C. § 1331.

12. Venue is proper in this district pursuant to 28 U.S.C. §1391(b) and as the Plaintiff resides in and the injury occurred in Florence County, South Carolina and Defendants do business in South Carolina.

13. Personal jurisdiction exists over Defendants as Plaintiff resides in South Carolina, Defendants have the necessary minimum contacts with the state of South Carolina, and this suit arises out of specific conduct with Plaintiff in South Carolina.

FACTUAL ALLEGATIONS

14. Plaintiff is a consumer who is the victim of inaccurate reporting by Defendant Westgate and Experian (collectively, “Defendants”), and has suffered particularized and concrete harm.

15. Experian is one of the largest consumer reporting agencies (“CRAs”) as defined by 15 U.S.C. §1681(a)(f).

16. The CRAs’ primary business is the sale of consumer reports (commonly referred to as “credit reports”) to third parties and consumers.

17. Experian has a duty, under the FCRA, to follow reasonable procedures to ensure that the consumer reports they sell meet the standard of “maximum possible accuracy.” 15 U.S.C. §1681(e)(B).

18. On and around January 2023 Plaintiff discovered Defendant Westgate was erroneously reporting an account with a balance past due on Plaintiff’s consumer credit reports (the “Account”).

19. Plaintiff and Defendant Westgate entered into a Deed in Lieu of Foreclosure agreement to absolve Plaintiff’s financial obligation on the Account.

20. Westgate accepted the Deed in Lieu of Foreclosure as full satisfaction of Plaintiff’s financial obligation on the Account.

21. Because Westgate still reports the Account with a balance due on Plaintiff’s Experian consumer report, Plaintiff’s report is not accurate and is misleading.

22. The false information regarding the Account appearing on Plaintiff’s consumer reports harms the Plaintiff because it does not accurately depict Plaintiff’s credit history and creditworthiness.

23. Experian published the false information concerning Plaintiff to third parties.

PLAINTIFF'S WRITTEN DISPUTE

24. On or about January 2023, Plaintiff sent a written dispute to Experian (the “Dispute”), disputing the inaccurate information regarding the Account reporting on Plaintiff’s Experian consumer report.

25. Upon information and belief, Experian forwarded Plaintiff’s Dispute to Defendant Westgate.

26. Upon information and belief, Westgate received notification of Plaintiff’s Dispute from Experian.

27. Upon information and belief, Westgate verified the erroneous information associated with the Account to Experian.

28. Westgate did not conduct an investigation, contact Plaintiff, contact third-parties, or review underlying account information with respect to the disputed information and the accuracy of the Account.

29. Experian did not conduct an investigation, contact Plaintiff, contact third-parties, or review underlying account information with respect to the disputed information and the accuracy of the Account.

30. Upon information and belief, Westgate failed to instruct Experian to remove the false information regarding the Account reporting on Plaintiff’s consumer reports.

31. Experian employed an investigation process that was not reasonable and did not remove the false information regarding the Account identified in Plaintiff’s Dispute Letter.

32. At no point after receiving the Dispute did Westgate and/or Experian communicate with Plaintiff to determine the veracity and extent of Plaintiff’s Dispute Letter.

33. Experian relied on their own judgment and the information provided to them by Westgate, rather than grant credence to the information provided by Plaintiff.

COUNT I – EXPERIAN

FAIR CREDIT REPORTING ACT VIOLATION – 15 U.S.C. §1681e(b)

34. Plaintiff re-alleges and reaffirms the above paragraphs as though fully set forth herein.

35. After receiving the Dispute, Experian failed to correct the false information regarding the Account reporting on Plaintiff's Experian consumer report.

36. Defendant Experian violated 15 U.S.C. §1681e(b) by failing to establish or to follow reasonable procedures to assure maximum possible accuracy in the preparation of the credit reports and credit files Defendant Experian published and maintained concerning Plaintiff.

37. As a result of this conduct, action and inaction of Defendant Experian, Plaintiff suffered damage, and continues to suffer, actual damages, including economic loss, damage to reputation, emotional distress, and interference with Plaintiff's normal and usual activities for which Plaintiff seeks damages in an amount to be determined by the trier of fact.

38. Defendant Experian's conduct, action, and inaction was willful, rendering Experian liable to Plaintiff for punitive damages pursuant to 15 U.S.C. §1681n.

39. In the alternative, Defendant Experian was negligent, entitled Plaintiff to recover damages under 15 U.S.C. §1681o.

40. Plaintiff is entitled to recover costs and attorneys' fees from Defendant Experian pursuant to 15 U.S.C. §1681n and/or §1681o.

COUNT II – EXPERIAN

FAIR CREDIT REPORTING ACT VIOLATION – 15 U.S.C. §1681(i)

41. Plaintiff re-alleges and reaffirms the above paragraphs as though fully set forth herein.

42. After receiving the Dispute, Experian failed to correct the false information regarding the Account reporting on Plaintiff's Experian consumer report.

43. Defendant Experian violated 15 U.S.C. §1681i by failing to delete inaccurate information in Plaintiff's credit files after receiving actual notice of such inaccuracies, by failing to conduct lawful reinvestigations, and by failing to maintain reasonable procedures with which to filter and verify disputed information in Plaintiff's credit files.

44. As a result of this conduct, action and inaction of Defendant Experian, Plaintiff suffered damage, and continues to suffer, actual damages, including economic loss, damage to reputation, emotional distress and interference with Plaintiff's normal and usual activities for which Plaintiff seeks damages in an amount to be determined by the trier of fact.

45. Defendant Experian's conduct, action, and inaction was willful, rendering Experian Defendant liable to Plaintiff for punitive damages pursuant to 15 U.S.C. §1681n.

46. In the alternative, Defendant Experian was negligent, entitling Plaintiff to recover damages under 15 U.S.C. §1681o.

47. Plaintiff is entitled to recover costs and attorneys' fees from Defendant Experian pursuant to 15 U.S.C. §1681n and/or §1681o.

COUNT III – WESTGATE

Fair Credit Reporting Act Violation – 15 U.S.C. §1681s-2(b)

48. Plaintiff re-alleges and reaffirms the above paragraphs as though fully set forth herein.

49. After receiving the Dispute, Westgate failed to correct the false information regarding the Account reporting on Plaintiff's consumer report.

50. Defendant violated 15 U.S.C. §1681s-2(b) by failing to fully and properly investigate Plaintiff's dispute of Defendant Westgate representations; by failing to review all relevant information regarding Plaintiff's dispute; by failing to accurately respond to credit reporting agencies; by verifying false information; and by failing to permanently and lawfully correct its own internal records to prevent the re-reporting of Defendant Westgate representations to consumer credit reporting agencies, among other unlawful conduct.

51. As a result of this conduct, action, and inaction of Defendant Westgate, Plaintiff suffered damages, and continues to suffer, actual damages, including economic loss, damage to reputation, emotional distress, and interference with Plaintiff's normal and usual activities for which Plaintiff seeks damages in an amount to be determined by the trier of fact.

52. Defendant Westgate conduct, action, and inaction was willful, rendering Defendant liable to Plaintiff for punitive damages pursuant to 15 U.S.C. §1681n.

53. In the alternative, Defendant Westgate was negligent, entitling Plaintiff to recover damages under 15 U.S.C. §1681o.

54. Plaintiff is entitled to recover costs and attorneys' fees from Defendant Westgate pursuant to 15 U.S.C. §1681n and/or 15 U.S.C. §1681o.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff seeks a reasonable and fair judgment against Defendants for willful noncompliance of the Fair Credit Reporting Act and seeks her statutory remedies as defined by 15 U.S.C. § 1681 and demands:

- A. Trial by jury;
- B. Actual damages to be proven at trial, or statutory damages pursuant to 15 U.S.C. § 1681n(a)(1)(A), of not less than \$100 and not more than \$1,000 per violation;
- C. Punitive damages, pursuant 15 U.S.C. § 1681n(a)(2), for Defendant's willful violation;
- D. The costs of instituting this action together with reasonable attorney's fees incurred by Plaintiff pursuant to 15 U.S.C. § 1681n(a)(3); and
- E. Any further legal and equitable relief as the court may deem just and proper in the circumstances.

Respectfully submitted this April 11, 2023

/s/ Aaron J. Kozloski
Aaron J. Kozloski DCID 9510
Capitol Counsel, LLC
PO Box 1996
Lexington, SC 29071
Telephone: (803) 465-1400
Fax: (888) 513-6021
aaron@capitolcounsel.us
Attorney for Plaintiff